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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/964,301	09/26/2001	Myron K. Gordin	P04278US5	1091

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EXAMINER	
YIP, WINNIE S	
ART UNIT	**PAPER NUMBER**
3637	

DATE MAILED: 09/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/964,301	GORDIN ET AL.	
	Examiner	Art Unit	
	Winnie Yip	3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *04 June 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-45* is/are pending in the application.

4a) Of the above claim(s) *9,20,22,29 and 32-42* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-8,10-19,21,23-27,30,31 and 43-45* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

This office action for a Request Continue Examination (RCE) application filed June 4, 2004, of earlier application.

Election/Restrictions

1. Claims 9, 20, 22, 29, 32-42 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected specie, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 6.

Claim Rejections - 35 USC § 112

2. Claims 1 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1 and 21, the newly recited language "structural characteristics" lacks a description in the specification. It is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967). Applicant is reminded that the meaning of every term used in any claim should be apparent from the descriptive portion of the specification, with clear disclosure of its import (M.P.E.P. 608.01(o); 706.03(n). Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. Claims 1, 5-6, 10-14, 16-19, and 44 are rejected under 35 U.S.C. 102(b) as being anticipated by Brott (US Patent No. 295,905).

Brott show and teach a system for rigidly elevating array of pre-aimed light fixture in an elevated position, comprising a base (B) positioned in a desirable location in the ground at the

site, said base (B) having a upper portion extending above the ground and a lower portion (b) inserted into the ground (see pg. 1, lines 100-104), the upper portion of the base (B) being tapered to form a frusto-conically shaped upper portion , a pole (A) including a plurality of pole sections, each pole section being made of hollow metal with a lower opening end, each of the pole being tapered along its entire length with an elongated frusto-conical shape, each of the pole sections being slip-fitted one over another due to the weight of the pole sections, the lower one pole section having an inside diameter generally matching the outside diameter of the upper portion of the base such that the lower open end of the lower one pole section being slip-fitting over a portion of the upper portion of the base above but near the ground, the base inherently having a width and a length being related to the strength, the height and the weight of the pole such that the slip fit formed between the base and the pole locks the pole in place by a resilient and frictional locking, wherein one or more cross arms (C) are mounted on the upper section of the pole by suitable connection member and an array of pre-aimed light fixture (c) is mounted to the cross arm (C) as claimed prior the pole is slip-fitting over the base and elevated in an erected position, and wherein the base is previous filled and packed with filling material to give its more weight and solidity such that the base and the pole inherently having structural characteristics different as claimed.

Claim Rejections - 35 U.S.C. 103

4. Claims 7-8 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brott '905 as applied to claims 1 and 13 above.

Brott teaches the pole having a structure as claimed except that Brott does not specifically define the poles being tapered with specific dimension as claimed. However, It would have been

an obvious matter of design choice to a person of ordinary skill in the art, at the time the invention was made, to provide the pole of Brott having a specific tapered dimension as claimed since Applicant has not disclosed that pole being tapered with specific dimension as claimed provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected applicant's invention to perform equally well with a pole section being tapered with specific dimension as claimed. It has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch, 617F.2d272,205 USPQ 215(CCPA 1980).*

5. Claims 1, 4-8, 10-19, 21, 23-24, 26-28, 30-31, and 43-44 are rejected under 35 U.S.C. 103 (a)as being unpatentable over Okuto et al. '498 in view of Crow (US Patent No. 839,272).

Okuto et al. show and teach a system for rigidly elevating one structure (2) in an elevated position (see Fig. 1 or exhibit as show bellow), comprising a base (3) positioned in a pre-excavated hole in the ground at the site, said base (3) having an upper portion (1") extending above the ground and a lower portion (3") inserted into the ground, a pole including a plurality of pole sections (1) each being made of hollow metal sheet and having a lower open end, each of the pole section (1) having total length being greater than the length of the base, the pole section and the each of the pole section being tapered along its entire length and each being slip fitted one over and other by to the weight of the pole sections to form a single extended pole which inherently have a length greater than the length of the base (3) (see col. 1, lines 46-50, 60-63), and a sealant (12), during the assembling operation, being applied between the lower end of each pole section and the upper end of the lower pole section or to the upper section of the base

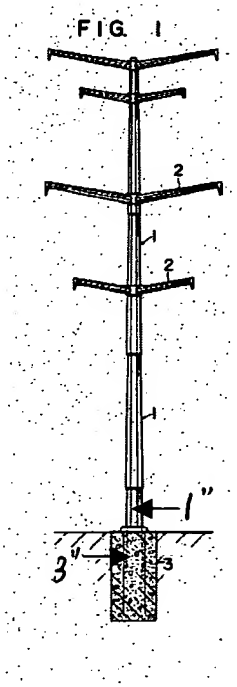
for locking sections together, and the locked pole section being raised into vertical position by means of lifting machine and an oil pressure jack (see col. 3, line 42), wherein the lowest pole section is slip-fitted onto the upper portion of the base above the ground but generally near the ground, and one or more cross arms (2) are mounted on the upper section of the pole inherently by a connection member for carrying electrical elements such as conductors for transmitting high voltage currents. Okuto et al. does not specifically define the pole structure having a plurality of array of pre-aimed light fixture mounted on the cross arms as claimed. However, as well known in the art, Crow teaches a pole structure (1, 9) having one or more cross arms (11) mounted on an upper end of the pole by connecting members (10), and a plurality of array of pre-aimed light fixture (18) mounted on the cross arms. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the pole structure of Okuto et al. having an array of pre-aimed light fixtures being mounted to the cross arms prior of the pole being elevated above the base as taught by Crow for supporting various electrical features to illustrate in a height arrangement.

Further, Okuto et al. teaches the base having a tapered upper section and a substantially cylindrical lower section such that the base is considered to have structural characteristics being different that the pole as claimed.

Regard to claims 7-8, although Okuto et al. and Crow do not specifically define the poles being tapered with specific dimension as claimed, it would have been an obvious matter of design choice to a person of ordinary skill in the art, at the time the invention was made, to provide the pole of Okuto performs equally well specific tapered dimension as claimed since it

has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch, 617F.2d272,205 USPQ 215(CCPA 1980).*

Regard to claims 21-28, 30-31, Okuto et al. teaches a pole and a base having all the claimed structural features in order to mount one or more cross arms with array of light fixtures mounted thereon in an elevated position as claimed, and the lower section of the base (3) of Okuto et al. , as common engineering practice, is moved into a pre-excavated hole in the ground, and is fixed in the foundation after the remaining areas of the hole being filled with concrete material as claimed. Therefore, it would have been obvious to the person of ordinary skill in this art --the design engineer-- with the method of Okuto et al. in view of Crow as explained, combined, and applied before him particularly at the time of the reduction to practice of the subject matter of these claims.



6. Claims 1-8, 10-19, 21, 23-28, 30-31, and 43-46 stand rejected under 35 U.S.C. 103 (a) as being unpatentable over Centrecon, Inc. (applicant 's prior art as shown in Figure 2) in view of Okuto et al. '498.

Centrecon, Inc., shows and teaches, a "steel and concrete combination lighting pole" for sports lighting applications (see module "SPRORTSLINER II-50 or prior art Fig. 2), comprising a pole structure including a concrete base (30) having a cylindrical lower section (32) being inserted into the ground and an tapered upper section (36) extending outward from the ground, the lower section (32) being placed into a ground hole which is filled with concrete thereafter, a metal pole (34) having a lower open end including an interior bore, said interior bore extending axially and inwardly from the lower open end and having a generally tapered inside diameter being slip-fitting over at least a portion of the tapered upper section of the base, the pole being tapered along its entire length and having an elongated frusto-conical shape, wherein the matching portions of the tapered interior bore of pole and the tapered upper section of the base providing "slip-fitting" for positioning the pole onto the base above the ground, wherein the base includes reinforcing means inherently providing suitable strength, height, and weight for supporting the pole in a vertical position, and an upper section of the pole having a plurality of cross arms (18, 20) mounted on an upper end of the pole inherently by a connection member, and an array of pre-aimed light fixtures (22) being mounted on the cross arms as claimed.

Although Centrecon (or the prior art Fig. 2) does not show the pole structure having the length of the pole being substantially longer then the length of the base and the pole being positioned its lower open end of the pole section generally "sever feet" near the ground such as claimed, to determine the distance of how "near" the pole is positioned above the ground would

have been obvious matter of design choice as depend upon the constructions of the pole and the base to be selected. Further, Okuto et al. teaches a pole structure comprising a base having an upper section extending above the ground, and a pole having a lower open end fitting onto the upper section of the base above the ground but near the ground. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the Lighting Pole of Centrecon (the prior art of the applicant's Figure 2) having the base with the upper section having a preselected length such as shorter then the length of the pole, and pole having predetermined diameter for stacking the pole slip-fitting over the upper portion of the base with the lower end above the ground with equal well distance which "near" the ground as taught by Okuto et al. for easily mounting and elevating the pole in an elevated position.

Regard to claims 7 and 15, adjusting of dimensions of the matching tapered sections of the base and the pole would have been accomplished as desired as to accommodate variety of applications.

Regard to claims 18 and 28, although Centrecon does not define the pole having a plurality of pole section being fitted sequentially one over another as claimed, Okuto et al. further teaches the pole structure being formed, as a common engineering practice, by a plurality of pole sections each having a tapered diameter being generally matching and slip-fitted one over and other. It would have been obvious to one ordinary skill in the art at the time the invention was made to modify the pole structure of Centrecon having more than one pole sections being sequentially fitted one over another as taught by Centrecon, as an old and well known method, for extending the length of the pole structure and reducing the weight of the pole to be easily transported and elevated.

Regard to claims 21, 23-27, 30, and 43-46, the pole structure as claimed would have been obvious assembled by the obvious steps as taught by Centrecon in view of Okuto et al. as discussed set forth above.

Response to Arguments

7. Applicant's arguments filed June 04, 2004 have been fully considered but they are not persuasive.

In response to applicant's argument that the reference to Okuto et al. fails to define the base having a tapered upper section being "slip fitted" by the pole, it is not deemed to be persuasive. First, we agreed as applicant indicated that Okuto clearly shows a combination pole and concrete base of different structural characteristics as now claimed. However, since applicant does not claim a base must be a single piece member or specifically made of concrete material only, and Okuto teaches the lower-most pole section (1") having a lower section (3") fixed to the foundation (3), therefore it is examiner's position to interpret the Okuto et al.' s pole structure having a base (3) including a tapered upper section (1") and a lower section (3") which is inserted into the ground as claimed. And, therefore, Okuto is considered to have the base that includes the upper tapered section and the lower section together having a length having structural characteristics different than the pole as claimed. Further, Okuto et al. clearly teaches each section of the pole (1) is slip fitted over each other, which solves the same problem of the claimed (see Okuto et al. reference, col. 1, lines 45-65). So the tapered upper section (1") of the base of Okuto's structure is considered to be slip fitted with the upper one pole section (1) as claimed . Therefore, the rejection is still proper.

In regard to applicant's arguments that there is no suggestion to combine the references of Okuto and Beeker have been considered but are moot in view of the new grounds of rejection.

8. Applicant fails to submit an argument to pointing out disagreements with the examiner's contentions to over the rejection as being unpatentable over Centrecon, Inc. (applicant 's prior art as shown in Figure 2) in view of Okuto et al. '498. Therefore, the rejection is still proper.

Inquiry Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Winnie Yip whose telephone number is 703-308-2491. The examiner can normally be reached on M-F (9:30-6:30), Second Monday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Winnie Yip
Primary Examiner
Art Unit 3637

September 10, 2004